

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

| | |
|--|------------------|
| IN RE: MIDAMERICAN ENERGY COMPANY | DOCKET NO. P-162 |
|--|------------------|

**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND PROPOSING TO TAKE
OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued June 19, 2002)

On February 12, 2001, MidAmerican Energy Company (MidAmerican) filed a petition and exhibits for renewal of natural gas pipeline permit number R-878, issued to Iowa-Illinois Gas and Electric Company, predecessor to MidAmerican, on July 20, 1976. The renewal petition is for approximately 4.57 miles of 10.75-inch diameter, steel pipeline for the transportation of natural gas in Linn County, Iowa. The pipeline begins at MidAmerican's town border station (TBS) #1 and 2 on the south side of Cedar Rapids, and runs in a generally easterly and northerly direction to a valve setting on Otis Road in Cedar Rapids, where it connects with two other MidAmerican transmission pipelines.

On June 17, 2002, the Utilities Board (Board) assigned this proceeding to a presiding officer and directed that a procedural schedule be established and a date set for hearing.

The Board's Authority and Jurisdiction

The Board has authority to grant permits for pipelines in whole or in part upon terms, conditions, and restrictions as to safety requirements, and as to location and route, as it determines to be just and proper. Iowa Code §§ 479.12 and 479.18 (2001).

To obtain a permit, the petitioner must show that the services it proposes to render will promote the public convenience and necessity. Iowa Code § 479.12 (2001). The petitioner must also satisfy the financial requirements of Iowa Code § 479.26 (2001).

The Issues

Pursuant to Iowa Code §§ 479.7 and 479.8 (2001) and 199 IAC 10.6, this matter will be set for a public hearing for the presentation of oral and documentary evidence and the cross-examination of witnesses concerning the public convenience and necessity issue, any safety issues, any pipeline location and route issues, the financial issues, and issues raised by objectors or any other party. The conduct of this case will be governed by Iowa Code Chapters 17A and 479 (2001), and by Board rules at 199 IAC chapter 10.

Prepared Testimony and Exhibits

All parties will be given the opportunity to present and respond to evidence and argument on all issues, and to be represented by counsel at their own expense. Iowa Code § 17A.12(4) (2001). The proposed decision and order that the

administrative law judge will issue in this case must be based on evidence contained in the record and on matters officially noticed in the record. Iowa Code §17A.12(8) (2001). Unless contrary arrangements are made on the record at the hearing, all evidence will be received at the hearing, and the record will be closed to any further evidence at the conclusion of the hearing.

The submission of prepared evidence prior to hearing will help to identify disputed issues of fact to be addressed at the hearing. Prepared testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. When a witness who has submitted prepared testimony takes the stand, the witness does not ordinarily repeat the written testimony or give a substantial amount of new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. The use of prepared testimony prevents surprise at the hearing and helps each party to prepare adequately for the hearing, so that a full and true disclosure of the facts can be obtained. Iowa Code §§ 17A.14(1), 17A.14(3) and 479.11 (2001). This procedure also tends to diminish the length of the hearing, and spares the parties the expense and inconvenience of additional hearings.

MidAmerican must submit prepared testimony and exhibits prior to the hearing. At a minimum, MidAmerican's prepared testimony must address the issues listed above.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate), and any objectors may also file prepared testimony and exhibits before the hearing in accordance with the procedural schedule.

Parties who choose not to file prepared testimony and exhibits before the hearing will not be precluded from participating in the proceedings. If an objector, for example, does not intend to present evidence going substantially beyond the information contained in the letter of objection, it is unnecessary for the objector to file prepared testimony. However, when a party has a substantial amount of information to present to the Board about the petition, if the information has not been previously disclosed to the Board, it should be presented in the form of prepared testimony and exhibits according to the procedural schedule established below.

Party Status

MidAmerican and the Consumer Advocate are currently the only parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2 (2001). No one has filed an objection to the petition as of the date of this order.

Anyone who has filed or will file an objection pursuant to Iowa Code §§ 479.9 and 479.10 (2001) and 199 IAC 10.5 will also be presumed to be a party to this case. However, no objector is entitled to party status merely because that person has written a letter. In order to qualify as a party, the objector must be able to demonstrate some right or interest that may be affected by the granting of the permit. Iowa Code § 479.9 (2001). An objector's status as a party may be challenged at the

hearing, and an objector who cannot demonstrate a right or interest that may be affected by the granting of the permit will no longer be considered a party.

Therefore, at minimum, objectors should be prepared to give evidence that will explain the nature of their specific rights or interests they believe should be protected, and will show how these rights or interests will be affected by the pipeline. As has already been noted, to the extent that the evidence goes substantially beyond information already communicated to the Board in an objection letter, it should be reduced to writing and filed as prepared testimony according to the procedural schedule established below.

Because objectors will be presumed to be parties up to the time of the hearing, an objector will receive copies of all documents that are filed in this docket after the letter of objection has been filed with the Board. This means that if a person files an objection after some or, all of the prepared testimony and exhibits have already been filed with the Board by other parties, the objector should make direct contact with the parties who have already filed prepared testimony and exhibits in order to obtain a copy of those materials. The official file of this case will be available for inspection at the Utilities Board Records Center, 350 Maple Street, Des Moines, Iowa. 199 IAC 1.9(1).

Objections must be filed not less than five days prior to the date of hearing. Late filed objections may be permitted if good cause is shown. 199 IAC 10.5. Objections must be made in writing and filed with the Executive Secretary of the Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

After an objector has filed a letter of objection, all further communications from the objector to the Board having to do with this case (including motions or prepared testimony and exhibits) should be sent to the Executive Secretary. A party (including objectors) must file an original and two copies of each communication with the Executive Secretary and the party must send one copy to each of the other parties to this case. 199 IAC 1.8. Along with the communication being sent, the party must file with the Board a certificate of service that conforms to 199 IAC 2.2(16), which verifies a copy of the document was served upon the other parties. These procedures are necessary to comply with Iowa Code § 17A.17 (2001), which provides in part:

Unless required for the disposition of ex parte matters specifically authorized by statute, parties or their representatives in a contested case and persons with a direct or indirect interest in such a case *shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, with a presiding officer in that contested case, except upon notice and opportunity for all parties to participate* as shall be provided for by agency rules.

Iowa Code §§ 17A.17(2) (2001) (emphasis added). Objectors and parties should examine 199 IAC Ch. 10 and 199 IAC 1.8 for other substantive and procedural rules that apply to this case.

Proposal to Take Official Notice

Mr. Jeffrey L. O'Neal, utility regulatory engineer for the Safety & Engineering Section, has prepared a memo dated June 6, 2002, concerning MidAmerican's petition pursuant to Iowa Code § 479.11 (2001). A copy of the memo is attached to

this order. Pursuant to Iowa Code § 17A.14(4) (2001), the administrative law judge proposes to take official notice of the memo and of the facts contained therein, thus making them a part of the record of this case. Iowa Code § 17A.12(6)(c) (2001). Any party objecting to the taking of official notice of the memo must file such objection as soon as possible, and no later than five days prior to the hearing. The parties will have the opportunity to contest any information contained in the memo in prefiled testimony and at the hearing.

IT IS THEREFORE ORDERED:

1. Each person who files a letter of objection to MidAmerican's petition in this docket will be presumed to be a party in the proceeding unless it is established at hearing that the objector has no right or interest that may be affected by the pipeline.

2. Objections must be made in writing and filed with the Executive Secretary of the Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, no later than five days before the hearing. Objectors must file an original and two copies of all subsequent communications to the Board with the Executive Secretary. The communications must be accompanied by a certificate of service.

3. The following procedural schedule is established:

a. On or before July 10, 2002, MidAmerican must file prepared direct testimony relating to its petition for renewal.

b. On or before July 24, 2002, the Consumer Advocate and any objector may file prepared responsive testimony.

c. A public hearing for the presentation of evidence and the cross-examination of witnesses concerning the issues identified in this notice of hearing will be held at 10 a.m. on Wednesday, August 7, 2002, in the Board's Conference Room 3, 350 Maple Street, Des Moines, Iowa. The hearing will be by telephone conference call unless any objections are filed, or unless any party files an objection to a telephonic hearing at least five days prior to the hearing. Parties and persons who wish to be connected to the hearing must dial (515) 323-1957 to reach the bridge line. Persons with disabilities who will require assistive services or devices to observe this hearing or participate in it should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

d. Required number of copies. All parties must file an original and two copies of all documents filed with the Board. 199 IAC 1.8(4)"d".

4. The administrative law judge proposes to take official notice of Mr. O'Neal's memo dated June 6, 2002, and attached to this order, and of the facts contained therein. Any party objecting to the taking of official notice of the memo should file such objection as soon as possible, and must file such objection no later than five days prior to the hearing. Any party desiring to cross-examine Mr. O'Neal concerning the statements contained therein must file a notice of intent to cross-examine no later than five days prior to the hearing.

5. Pursuant to Iowa Code §§ 17A.12(1) (2001) and 199 IAC 10.4, a copy of this order will be served by ordinary mail upon MidAmerican and the Consumer

DOCKET NO. P-162
PAGE 9

Advocate. No persons have filed objections to the petition as of the date of this order.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 19th day of June, 2002.

Department of Commerce
UTILITIES DIVISION
SAFETY & ENGINEERING SECTION

TO: DOCKET NO. P-162

FROM: JEFFREY L. O'NEAL

DATE: JUNE 6, 2002

SUBJ: MIDAMERICAN ENERGY COMPANY RENEWAL PETITION

Background/History

On April 4, 1950, Temporary Permit No. 119 was issued in Docket No. P-162 to Iowa-Illinois Gas and Electric Company, Davenport, Iowa, n/k/a MidAmerican Energy Company (MidAmerican) to construct, maintain and operate a natural gas pipeline in Linn County, Iowa. This permit was for a pipeline 8.5 miles in length, of 10.75-inch diameter pipe, to operate at a maximum pressure of 125 pounds per square inch (psi). On May 29, 1950, the company was granted the right to condemn and obtain easement over a parcel of land adjacent to the Cedar River in Section 2, T-82N, R-7W, Linn County, Iowa. On February 16, 1951, Permanent Permit No. 208 was issued to replace Temporary Permit No. 119.

In 1965, MidAmerican installed approximately 0.8 miles of new pipe in the southwest quarter of Section 3, T-82N, R-7W, and the northwest quarter of Section 10, T-82N, R-7W, to relocate the pipeline to allow for industrial development in this area. The pipeline's original route ran diagonally across this area; the new route runs north-south and east-west along public roads. The permit was not modified at this time. The relocated pipe is more than 300 feet but less than ½ mile from the route of the original pipeline.

On June 23, 1970, an amendment to Permit No. 208 was issued to MidAmerican, increasing the maximum operating pressure on 4.8 miles of pipeline to 600 psi. This amendment excluded several miles of pipe that had been included in the original permit, and added roughly 1½ miles of new pipe (installed 1969) along a different route (mostly along Otis Road.) The portion of the original pipeline that was excluded from the amendment now operates as a distribution main, at less than 150 psig, so it does not require a permit. See 199 IAC 10.16.

On July 20, 1976, MidAmerican was issued renewal permit No. R-878, for 4.8 miles of pipeline at a maximum operating pressure of 600 psig.

In 1976, MidAmerican installed approximately 0.8 miles of new pipe in the north half of Section 2, T-82N, R-7W, and the southeast quarter of Section 35, T-83N, R-7W, to relocate the pipeline to allow for the expansion of a quarry east of the Cedar River. The pipeline's original route ran north through the area where the quarry is now located, then east along a public road; the new route runs east along a railroad then north along a public road. The new pipe was placed in service on July 15, 1976, prior to the date the renewal permit was issued (July 20, 1976), but after the June 21, 1976, renewal hearing date. No record could be found showing the date construction began. The permit was not modified at this time. The relocated pipe is more than 300 feet but less than ½ mile from the route of the original pipeline. (Approximately ½ mile of the pipe that was replaced is still in operation as a distribution main at less than 150 psig. This pipe no longer requires a permit, and was not included in the current petition for renewal. See 199 IAC 10.16.)

In 1988, MidAmerican installed approximately 0.9 miles of new pipe in the east half of Section 3, T-82N, R-7W, to relocate the pipeline to allow for industrial development in this area. The pipeline's original route ran diagonally across this area; the new route runs north-south and east-west. The permit was not modified at this time. The relocated pipe is more than 300 feet but less than ½ mile from the route of the original pipeline.

This pipeline currently consists of 4.57 miles of 10.75-inch diameter steel pipe in Linn County, Iowa.

Subrule 10.18(1) requires that the board receive prior notice of any relocation of more than 300 feet from the original alignment of a pipeline under permit. Relocations of ½ mile or more require the filing of a petition for permit. These requirements have been in effect since at least 1966. (The requirements of subrule 10.18(1)c-f were added in a 1991 rulemaking.) None of the relocations on this line have exceeded ½ mile from the original route of the pipeline, so no permit action was required. Three relocations on this line have exceeded 300 feet from the original route of the pipeline. (One in 1965, prior to the 1976 renewal hearing, one in 1976 and one in 1988.) There is no record in our files of any prior notice to the board of these relocations. This does not necessarily indicate that MidAmerican did not comply with the rules considering the age of the docket and the possibility that the notice could have been filed in another forum. Nonetheless, MidAmerican should be cognizant that the board must

receive prior notice of any of the actions that are listed in 199 IAC 10.18(1) for a pipeline under permit.

Petition

On February 12, 2001, MidAmerican filed a petition and exhibits for renewal of its natural gas pipeline permit in Docket No. P-162. The renewal petition is for 4.57 miles of 10.75-inch diameter, steel pipeline in Linn County, Iowa, with a maximum allowable operating pressure of 600 psig.

A review of the renewal petition revealed items requiring correction or clarification. MidAmerican was notified of the deficiencies by letter dated November 28, 2001. MidAmerican filed revised exhibits on May 15, 2002, correcting the deficiencies.

Route/Pipeline Safety Compliance

On August 6 & 8, 2001, I inspected the route of the pipeline as part of a pipeline safety compliance inspection.

The pipeline begins at the company's town border station (TBS) #1 & 2 on the south side of Cedar Rapids (which is fed by pipelines from the south), and proceeds generally easterly and northerly to a valve setting on Otis Road, where it connects with other MidAmerican transmission pipelines – a 12-inch pipeline going north and a 16-inch pipeline from the south. The pipeline supplies natural gas to the company's TBS #3 and TBS #6, regulator stations #93, #99 and #104, and customers along the route, including Interstate Power and Light Company's Prairie Creek Generating Station. The pipeline crosses the Cedar River near the generating station.

Petition Exhibit C and the local class location records state the line is in Class 2 and Class 3 locations. Federal pipeline safety standards classify routes as Location Class 1-4 according to the number of buildings intended for human occupancy within 220 yards, or places of public assembly within 100 yards. 49 C.F.R. 192.5.

Beginning at the west end of the pipeline, the pipeline passes through some undeveloped land near factories, then along public roads near mobile home parks, businesses, and factories, passes another mobile home park, then runs through undeveloped land, then along a public road past a business or factory, an electric generating station and public parks, crosses a river and runs along a

railroad near a working quarry, through more undeveloped river bottom land, then along public roads with several houses along the route.

Company records at Cedar Rapids state this line is in a Class 3 location from TBS #2 to the Cedar River crossing at C St. SW, then in a Class 2 location from the Cedar River crossing to the east end of the line on Otis Road west of 44th Avenue.

The mobile home parks would create a Class 2 location from TBS #1 & 2 to a point west of C St. SW, where the line turns north toward Prairie Creek Generating Station, and businesses and factories would create Class 3 locations within this area. About ¼ mile of pipe along C St. SW might qualify as Class 1. The east edge of the generating station building is less than 100 yards from the pipeline, so the area near the generating station appears to be a Class 3 location. Baseball fields and a park just north of the generating station might create a Class 3 location here also, depending on usage. The line turns east and crosses the river, running through a wooded area near a railroad and a quarry. There is public access to the area south of the railroad tracks (on the opposite side of the tracks from the pipeline), including a couple of small parking lots, but no shelters, ball fields or other defined areas other than the parking lots. This area could probably be considered Class 1. After the line joins Otis Road, there are enough houses along the road to create a Class 2 location. The company's classifications are reasonable. They may be conservative in some areas, but this seems prudent based on the development near this pipeline.

The pipeline must meet the requirements of 49 CFR Part 192 - "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards", which is adopted in subrule 10.12(1). I inspected the pipeline for compliance with these standards on August 6-10, 2001, and filed an inspection report on November 5, 2001. This inspection raised questions and issued advisories regarding compliance with the safety standards. MidAmerican was verbally informed of these items during the inspection and advised by letter dated November 28, 2001. On May 10, 2002, MidAmerican filed its response, which satisfactorily answered all the questions and advisories listed in the November 5, 2001, inspection report.

The pipeline's design and operating pressure meet the standards for the class locations designated by the company.

During the inspection, gas leak and repair records were reviewed. Records showed no leaks or repairs on this pipeline.

No evidence was found of any problems that would prevent this pipeline from continuing in operation as it currently operates.

Conclusions

The deficiencies have been corrected and the filing is in order. There are no outstanding probable violations of the pipeline safety standards for this pipeline. The pipeline appears in good condition and capable of continuing in operation as it currently operates. No special conditions or restrictions are suggested for the renewal permit. The company should be cognizant that the board must receive prior notice of any of the actions that are listed in 199 IAC 10.18(1) for a pipeline under permit.

jo